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December 1, 2011

## VIA E-FILING

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**Executive Secretary** National Labor Relations Board 1099 - 14th Street, N.W. Washington, DC 20570-0001

Re: Children's Hospital of Oakland NLRB Case No. 32-RC-5617 Request for Review of Supplemental Decision on Challenged Ballots and Objections

## Dear Executive Secretary:

Please consider this Intervenor SEIU, United Healthcare Workers – West's ("UHW") Request for Review of the Regional Director's Supplemental Decision on Challenged Ballots and Objections ("Supplemental Decision") issued on November 17, 2011 in the abovereferenced matter.

UHW's request for review is based on the grounds that the Regional Director's Supplemental Decision raises substantial questions of law and/or policy because of the absence of, and departure from, official Board precedent, and that there are compelling reasons for reconsideration of an important Board rule and/or policy.

In particular, UHW requests review of the Regional Director's decision to overrule and not set for hearing UHW's Objections Nos. 4, 6, 7, 10, 11, 15, 16, 17, 25, 27, 29, 31, and 34. Those objections raise substantial and material issues of fact and law. The Supplemental Decision provides that each of those objections was overruled because they were based on the same factual allegations and legal theories presented in a number of unfair labor practice charges filed by UHW that were previously dismissed by the Region for lack of merit.

The Regional Director's decision to not set UHW's objections for a hearing simply because no complaint was issued on the parallel unfair labor practice charges deprived UHW of its due process right to have the issues raised in the objections adjudicated. See Edna H. Pagel, Inc. v. Teamsters Local 595, 667 F.2d 1275, 1280 (9th Cir. 1982) ("The NLRB's refusal to issue a complaint ends the administrative process before any adversarial process or full hearing on the merits."); see also Smith v. Local No. 25, Sheet Metal Workers Int'l Ass'n, 500 F.2d 741, 747-748

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(5th Cir. 1974) ("Of course, the Board uses different criteria in determining whether to issue a complaint from those which the courts employ in adjudicating a controversy.").

For these reasons, UHW requests that the Board grant the Union's request for review and remand the matter to the Regional Director so that he can set a hearing on all of UHW's objections to the conduct of the election that are identified above.

Respectfully submitted,

WEINBERG, ROGER & ROSENFELD

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